IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

Criminal Application No.637 of 2007
IN
Criminal Appeal No. of 2007

The State of Maharashtra. .. .. Applicant
(Orig. Complainant)

v/s.

Ramzan Shabbir Bhatkar & 4 ors. .. Respondents
(Orig.Accused Nos.1 to 5)

Dr.F.R. Shaikh, Additional Public Prosecutor for Applicant.

Mr.R.F.Lambe with Mr.Rajesh Khobragade and Mr.F.M. Dinyankar for Respondent Nos.1 to 5.

CORAM : DR.S. RADHAKRISHNAN &

SMT.ROSHAN DALVI, JJ.

Dated : 23rd August, 2007

P.C. :

1. Heard the learned Additional Public Prosecutor for the Applicant-State and the learned Counsel for the Respondents.

2. By this Application, the State is seeking leave to appeal against the judgment of the learned Sessions Judge dated

31st July 2006, acquitting all the Respondents with regard to the offence punishable under Section 436 read with Section 34 of Indian Penal Code. Perusal of the judgment clearly indicates that there are a number of patent contradictions in the deposition between the eye witnesses and there were a number of improvements on material aspects. If really the acid had been thrown on the fishing nets, the prosecution could not show any damage caused to the fishing nets as the Chemical Analyser's report was not filed. Over and above, there is also unexplained delay in filing the FIR of over 20 hours. There was absolutely no evidence that 500 Kg. fishing nets were burnt.

3. In the aforesaid facts and circumstances of the case, we do not find that any case is made out for granting leave to file an Appeal against the said acquittal. We may also observe that the alleged grounds in the Memo of Appeal do not even set out any credible ground for interference. The Application is totally devoid of any merit and the same is, therefore, dismissed.

(**DR.S. RADHAKRISHNAN, J.**)

(ROSHAN DALVI, J.)